

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA J. AYALA,

Plaintiff,

-against-

SEPHORA; JENNIFER RIVERA,

Defendant.

19-CV-10214 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

Plaintiff brings this *pro se* action under the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12112-12117, alleging that her employer discriminated against her based on her disability. Named as Defendants are Sephora and Jennifer Rivera, a Sephora employee. By order dated November 4, 2019, the Court granted Plaintiff’s request to proceed *in forma pauperis*.

A. Order of Service

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have

¹ The Court previously issued orders of service, but the U.S. Marshals Service was unable to effect service at the store address where Plaintiff was employed, 2013 Broadway, New York, N.Y. 10023, or the New York headquarters, 11 East 57th Street, New York, N.Y. 10022. Plaintiff recently wrote to the Court and reaffirmed her interest in litigating this case.

served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendant Sephora through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for this defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon this defendant. Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Valentin Order

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying and serving a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit Sephora to identify and provide a service address for Jennifer Rivera. It is therefore ordered that Sephora shall provide this information to the Court within sixty days of the date of this order. Upon receiving this information, the Court will issue a new service order.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff.²

The Clerk of Court is further instructed to complete the USM-285 form with the address for Sephora and deliver all documents necessary to effect service to the U.S. Marshals Service.

Finally, the Clerk of Court is instructed to mail a copy of this order by certified mail to the Sephora New York Corporate Office at: Sephora USA, Inc., 52 Market Street, 32nd Floor, San Francisco, California 94105.

SO ORDERED.

Dated:

New York, New York

9/25/20



JOHN G. KOELTL
United States District Judge

² In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to Temporary_Pro_Se_Filing@nysd.uscourts.gov. *Pro se* parties also are encouraged to consent to receive all court documents electronically. A consent to electronic service form is available on the Court's website. *Pro se* parties who are unable to use email may submit documents by regular mail or in person at the drop box located at the U.S. Courthouses in Manhattan (500 Pearl Street) and White Plains (300 Quarropas Street). For more information, including instructions on this new email service for *pro se* parties, please visit the Court's website at nysd.uscourts.gov.

DEFENDANTS AND SERVICE ADDRESSES

1. Sephora USA, Inc.
52 Market Street
San Francisco, California 94105